IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4222 of 2001
to
FIRST APPEAL No 4235 of 2001
with
FIRST APPEAL No 4205 of 2001
to
FIRST APPEAL No 4221 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL
and
Hon'ble MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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SPECIAL LAND ACQUISITION OFFICER
Versus
RAJENDRABHAI MAGANBHAI PATEL

Appearance:
MR AD OZA, GOVT. PLEADER for Appellant No. 1-2 in FA 4222 to 4235/01
MR SUDHANSHU PATEL AGP for Appellant No 1-2 in FA 4205 to 4221/01
MR GC MAZMUDAR for Appellant No.3 in FA 4222 to 4235/01
MR JM PATEL for Respondents

CORAM : MR.JUSTICE B.C.PATEL
and
MR.JUSTICE SHARAD D.DAVE

Date of decision: 17/09/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE B.C.PATEL)

#. This group of appeals stands admitted. At the request of learned advocate Mr. J.M. Patel and the Government Pleader, these appeals are taken up for final hearing today. Mr. Mazmudar appears for acquiring body. The record is made available by the learned counsel appearing for the parties.

#. In the instant case, there is no dispute with regard to issuance of notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter to be referred to as "the Act") It is also admitted that the notification under Section 4 of the Act, culminated in the award in accordance with law by Special Land Acquisition Officer. Suffice it to say that notifications under Section 4 and 6 were published on 11.2.88 and 7.7.88 for the lands situated at village Diver, District - Vadodara for construction of Amleshwar Branch of Narmada Project.

#. After following the procedure laid down in the Act, the Land Acquisition Officer made an award and fixed the market price at Rs. 300/- per Are. Thereafter Reference Applications came to be filed and ultimately the Reference Court on appreciation of evidence and material placed before it, awarded Rs. 1,000/- per Are in all along with other statutory benefits.

#. In the present appeals, question is whether the amount of compensation awarded is excessive or not. When the lands are acquired under the Act, compensation is required to be paid and the Reference Court has to determine, on the appreciation of evidence placed before it. The question of willing purchaser and willing vendor, is decided on the evidence. It is found by the Reference Court that agriculturists used to earn by putting their hard labour. They used to get crops twice a year. The crops like Cotton, Paddy, Wheat, Tuver, Sugarcane etc. were taken in different seasons. The Reference Court, considering the value of the Cotton, Paddy, Tuver etc. arrived at a conclusion as aforesaid. The Reference Court in para 10 has given details about various crops and the amount earned per Vigha. The Reference Court has also pointed out that the evidence is

corroborated by village form 7/12 maintained by government. Like businessmen, the agriculturists would not keep books of accounts. There is no reason to doubt their oral evidence and the Reference Court preferred to adopt the yield method. Considering the deduction of 50% towards the agricultural expenses as per the judgment in the case of State of Gujarat & others v. Rama Rana and others, reported in 1997 (2) SCC 693, and applying the multiplier of 10, the Reference Court has arrived at a conclusion. Considering the evidence placed on record, according to the Reference Court, the amount would be Rs. 15/- to Rs. 17/-. However, considering the application which was restricted to the sum of Rs. 10/per sq. mt. only, in our opinion, the Reference Court has rightly awarded the amount.

#. The land Acquisition Officer while drawing an award lost sight of the fact that facility of irrigation is available. Ex.20, government record indicated facility of wells and tube wells in several blocks of village Diver. As found by the Reference Court, the Special Land Acquisition Officer determined the market price on the basis that the agriculturist are dependent on rain only.

#. That apart, when farmers have placed on record sufficient material in the form of oral evidence which is corroborated by government record i.e. form 7/12. In absence of evidence led on behalf of the State to point out that the lands are not fertile or that the lands are not irrigated lands, it is difficult to say that the Reference Court has erred in arriving at a conclusion.

#. Learned Government Pleader from the evidence could not point out any error committed by the Reference Court while appreciating the evidence, save and except stating that the books of accounts were not produced. There is nothing to indicate that their oral evidence is not required to be accepted when the crops which they were cultivating is evident from village form 7/12- the record maintained by the government. In view of the fact that the Court arrived at a conclusion on appreciation of evidence placed before it, we are of the view that no interference is called for. Therefore, the appeals are required to be dismissed with no orders as to costs.

#. It is required to be noted that the claimants are without benefits of award as the amount is not paid. Therefore, it is directed that the amount shall be deposited within a period of six months from today. 50% of the amount to which they are entitled to claim shall be disbursed within three months and remaining 50% amount

shall be paid thereafter within the next three months.
The appeals stand dismissed with no order as to costs.

[B.C. PATEL, J.] [SHARAD D. DAVE, J.]

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